THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 5262 of 2006

Dated: 27-09-2006

Between:

Vinayak Timber Depot and Saw Mill,

..... PETITIONER

AND

The Divisional Forest Officer,
Hyderabad.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 5262 of 2006

O R D E R:

The petitioner was granted a licence under Rule 3 of A.P. Saw Mills (Regulation) Rules, 1969 (for short 'the Rules') on 09.06.1997 to establish a timber depot and saw mill at Plot No.5, Ahmadguda, Keesara Road, R.R. District. Subsequently, the petitioner made an application dated
17-06-2005 to the respondent seeking permission to shift his saw mill and timber depot to Dr.3-2-124, Bahadurguda, L.B.Nagar Ring Road, Hyderabad. The said application made by the petitioner was rejected by the respondent by order dated 14-02-2006 on the ground that the proposed premises is located within 5 Kms from the boundary of nearest Reserve Forest Gurramguda. Aggrieved by the same, this writ petition is filed.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Forest appearing for the respondent.

In the counter affidavit filed on behalf of the respondent, it is stated that as per the provisions of Sub Rule (2) of Rule 5 of the Rules, it is impermissible to grant permission for shifting of the saw mill to a premises, which is located within 5 Kms distance from the nearest reserve forest area.

However the learned counsel for the petitioner contended

that it is absolutely incorrect to state that the proposed premises is located within 5 Kms. from the reserve forest area. It is pointed out by the learned counsel that about 111 saw mills have been located within L.B.Nagar Municipality and even the Assistant Executive Engineer, R&B South Section issued Distance Certificate certifying that the distance from L.B.Nagar 'x' roads to Gurramguda reserve forest is 6 Kms. Thus, it is contended that the impugned order dated 14-02-2006 which was passed without application of mind to the relevant factors is liable to be set aside on that ground alone.

It is to be noted that in paragraph 6 of the affidavit filed in support of the writ petition, the petitioner specifically pleaded that 111 saw mills are located within the L.B.Nagar Municipality. A list of the said saw mills was also annexed to the writ petition. The respondent in his counter affidavit neither disputed the said fact, nor any material is placed before this Court justifying the stand taken in the impugned order.

In the circumstances it would be appropriate to reconsider the request of the petitioner for shifting of the premises after affording him an opportunity to explain his case.

Accordingly, the impugned order dated 14-02-2006 is set aside and the writ petition is disposed of with a direction to the respondent to reconsider the request of the petitioner for shifting of the saw mill in terms of Rule 5 (4) of the Rules, after affording due opportunity to the petitioner to put forth his version and pass appropriate orders in accordance with law, as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order. No costs.

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G. ROHINI, J

Dated: 27-09-2006

KLP